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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

PATRICIA S. BALIAN,

Plaintiff and Appellant,

v.

ALEXANDER G. BALIAN et al., as
Trustees, etc.,

Defendants and Respondents.

B248024

(Los Angeles County
Super. Ct. No. BP110838)

APPEAL from orders of the Superior Court of Los Angeles County, Reva G. Goetz, Judge. Affirmed in part; dismissed in part.

Patricia S. Balian, in pro. per., for Plaintiff and Appellant.

Lurie, Sepeda, Schmalz & Hogan, Steven L. Hogan and M. Damien Holcomb, for Defendant and Respondent Alexander G. Balian.

Cotugno & Rust and Richard N. Rust, for Defendant and Respondent George A. Balian, Jr.

I. INTRODUCTION

Plaintiff, Patricia S. Balian, proceeding in pro se, appeals from the probate court's orders in the matter of the Mary J. Balian Revocable Trust dated May 11, 1995 (the trust). Pursuant to Probate Code section 17200,¹ plaintiff objected to three accountings by defendants, Alexander G. and George A. Balian,² successor trust cotrustees. Plaintiff filed a petition to remove defendants as cotrustees. Plaintiff also filed a petition to surcharge defendants for their alleged misconduct as cotrustees. Defendants opposed plaintiff's objections, removal and surcharge petitions. Defendants also filed their own petition to surcharge plaintiff for her objections.

The probate court overruled all of plaintiff's objections. With modifications, the probate court approved the trust accountings. The probate court also denied plaintiff's removal and surcharge petitions. The probate court granted defendants' surcharge petition and surcharged plaintiff \$39,000 for her objections to the second account current, finding she opposed the accountings in bad faith. Plaintiff appeals the probate court's orders. We affirm, except as to an appeal from an August 30, 2012 order. As to the August 30, 2012 order, the appeal from it is dismissed.

II. BACKGROUND

A. The Trust

We previously discussed the trust in *Balian v. Balian* (2009) 179 Cal.App.4th 1505, 1507-1508. Mary, who created the trust, is the mother of Alexander, George, Diane and plaintiff. (*Id.* at p. 1507.) Mary designated Alexander and George as

¹ Further statutory references are to the Probate Code unless otherwise noted.

² Several parties share the same last name. We shall refer to them by their first name for clarity. No disrespect is intended.

successor cotrustees. (*Ibid.*) Paragraph D of the sixth article of the trust provides that upon Mary's death its residue should be divided equally between Alexander, George, Diane and plaintiff. (*Ibid.*) Plaintiff has been permanently disabled since 1986 with a bipolar disorder. (*Id.* at p. 1508.) Another son of Mary's, Daniel Balian, was to receive \$2,000 upon her death. Mary's other three children would receive nothing. Mary died on March 4, 2008. Paragraph F of the sixth article of the trust provides that Diane and plaintiff's share would be distributed to a special needs trust. The special needs trust limits plaintiff's payments to \$2,000 per month.

The trust grants the trustees with the power to litigate, "To commence or defend litigation with respect to the Trust or any property of the Trust Estate as the Trustee may deem advisable, at the expense of the Trust." The trust also permits the employment of consultants in paragraph M of the ninth article: "The Trustee is authorized to employ and pay any custodian, investment advisor, attorney, accountant, corporate fiduciary, or any other agents to assist the Trustee in the administration of the Trust, as the Trustee, in the Trustee's discretion, deems proper. Reasonable compensation for all services performed by these agents shall be paid from the Trust Estate and shall not decrease the compensation to which the Trustee is entitled." The trust also allows the trustees to "receive reasonable compensation . . . in accordance" with that being paid for similar services by corporate institutions acting in the City of Los Angeles.

B. Plaintiff's Prior Declaratory Relief Petition

On May 23, 2008, plaintiff filed a declaratory relief petition. Plaintiff requested to remove defendants as trustees and to modify the special needs trust. Plaintiff sought a declaration that her petitions did not violate the trust's no-contest clause under section 21320. (*Balian v. Balian, supra*, 179 Cal.App.4th at p. 1509.) The probate court granted her petition. (*Id.* at p. 1510.) On December 11, 2009, we affirmed the probate court's order. (*Id.* at p. 1513.)

C. George's Petition for Instructions to Sell Trust Property

On August 5, 2009, George filed a petition for instructions to sell the trust's properties. George contended the sale was necessary to fund the special needs trust and pay administration expenses. George also argued the sale would comply with the trust's purpose by effecting distributions to the beneficiaries as soon as possible following Mary's death. At the time of Mary's death, the trust assets consisted of cash, 13 real property parcels and shares in Balian's Market, Inc. Only one parcel had been sold by the time of the filing of George's petition. Only 5 of the remaining 12 parcels were listed for sale. Alexander opposed the sale of all the real property. George filed a petition to permit the Holt Avenue property, the Balian family residence, to first be renovated, rented at fair market value and then sold. George also sought to sell Diane and plaintiff's share of the Balian's Market stock. George proposed the stock sale be offered only to the trust beneficiaries and all seven shareholders.

On October 20, 2009, Alexander filed his objections to George's petition. Alexander argued George's requested relief would result in the sale of the properties at depressed prices. Alexander contended the more prudent course of action would be to sell as many properties as needed to fund the trust's administrative costs. Alexander also contended George would be unfairly enriched because he would be the only bidder on the Balian's Market stock.

Plaintiff filed her own objections to George's petition on October 22, 2009. Plaintiff contended she did not want her share of the Balian's Market stock sold. Plaintiff contended the one parcel that sold was purchased below fair market value. Plaintiff argued the status quo should be maintained until she filed her petitions to remove the trustees and modify her special needs trust.

D. Plaintiff's Petition To Remove The Cotrustees

On February 19, 2010, plaintiff filed petitions to remove defendants as trust cotrustees. She argued: Alexander and George's lack of cooperation impaired the trust's administration; she and defendants have constant and intense hostility between them; the Bank of America should succeed defendants as trustee; and there should be an accounting after defendants are removed. On May 4, 2010, defendants filed their response to plaintiff's petition to remove them as cotrustees. Defendants asserted: the alleged hostility between them did not affect the proper administration of the trust; Mary knew of past discord between her children yet she still appointed George and Alexander as cotrustees; and their past disputes with plaintiff do not affect their proper administration of the trust.

E. Alexander and George Continue Discussions Regarding Trust Assets

By April 14, 2010, Alexander and George reached some agreement regarding the petition for instructions to sell the trust properties. Another 2 properties had been sold, leaving only 10 parcels as trust assets. George contended Alexander agreed to list all properties for sale except for the Holt Avenue property. Both trustees agreed the Holt Avenue property should be renovated once the trust had sufficient funds. The cotrustees however disagreed as to what prices to list four of the properties. Following a hearing on April 14, 2010, the probate court ordered all properties be listed for sale, excluding the Holt Avenue property. On May 3, 2010, Alexander filed his own cross-petition for instructions. Alexander sought an order that in the event the remaining real properties could not be sold, the trust property should be distributed in-kind.

F. Dismissal of Two Petitions

On May 13, 2010, plaintiff filed a notice her petitions to dismiss the trustees and to modify the special needs trust were off calendar. On June 1, 2010, the probate court dismissed both petitions without prejudice.

G. First Accounting

On July 2, 2010, defendants filed their first account current for the period of March 4, 2008, to May 31, 2010. Defendants requested the first account be approved. Defendants also requested payment of attorney's, accounting and trustee's fees and costs.

On July 29, 2010, plaintiff filed her objections to the first account. Plaintiff argued: the first account was vague and confusing regarding transactions during the account period; certain property had not been included in the accounting; defendants failed to make distributions to her; defendants wasted trust assets by allowing Daniel Balian to rent the Holt Avenue property at below market rates; three recent real property sales were below fair market value; defendants' trustees fees were also excessive; and defendants failed to prudently administer the trust with reasonable care, skill and caution under the prevailing circumstances.

On September 24, 2010, Alexander filed a petition seeking appeal and payment of attorney's fees incurred on his behalf from November 1 through December 31, 2009. On September 27, 2010, George likewise filed a petition for approval of attorney's fees and expenses incurred during the same period as Alexander. On December 3, 2010, plaintiff filed her opposition to George's and Alexander's petitions for approval and payment of attorney's fees and costs. Plaintiff argued the fees accrued opposing her petition for declaratory relief were not in the interest of the trust. She also contended fees should be denied for duplication of work and because of the cotrustees' failure to cooperate.

On December 13, 2010, plaintiff filed another petition to remove defendants as trustees. Plaintiff argued defendants' opposition to her petition for declaratory relief wasted trust funds. Plaintiff realleged how defendants' hostility towards each other and her impaired the trust administration.

H. Plaintiff's Restraining Order Against Alexander

On January 13, 2011, plaintiff sought a restraining order against Alexander. The restraining order request alleges: on December 29, 2010, plaintiff attempted to move her property from the Holt Avenue property; she arrived with a crew of moving people to assist her; she had a video camera; Alexander charged her, pushed and shoved her, wrenched her neck and shoulder, knocked her in her head and broke her video camera; Alexander prevented her from obeying a probate court order to remove all her items from the property; Alexander accused her of stealing and locked her and her crew out; and Alexander told her he could have her killed because she was Satan's daughter. A temporary restraining order was issued on January 26, 2011.

On February 2, 2011, the restraining order request hearing was heard before Judge Elizabeth Feffer. Judge Feffer found the facts of the case did not support the restraining order under Family Code section 6300. Judge Feffer concluded the evidence did not indicate Alexander had engaged in conduct that would place plaintiff in reasonable fear of serious bodily injury. Judge Feffer dissolved the January 26, 2011 temporary restraining order.

I. Order to Show Cause

On January 20, 2011, the probate court issued an order to show cause whether to temporarily remove the cotrustees. The probate court cited the various conflicts between the trustees, plaintiff's alleged difficulty in acquiring her personal property and the need to mandate sale prices for several trust properties. Defendants responded to the order to

show cause. There is no evidence the probate court ever temporarily removed defendants as trustees.

J. The Probate Court Approves First Account Current Attorney's Fees and Costs Payable
by the Trust

On September 22, 2011, the probate court issued its statement of decision concerning the attorney's fees and costs incurred by the cotrustees from March 4, 2008, to April 30, 2010. The probate court approved attorney's fees and costs in the amount of \$584,317 to the cotrustee's attorneys, payable by the trust. On October 7, 2011, both defendants filed reconsideration motions as to the probate court's statement of decision. On November 30, 2011, the probate court corrected its September 22, 2011 statement of decision by changing the covered period to February 1, 2008, to June 30, 2011. On December 9, 2011, the probate court adjusted its September 22, 2011 statement of decision regarding attorney's fees and costs. The probate court ordered \$658,786 in attorney's fees and costs be charged to the trust.

K. Cotrustees' Second Account Current

On November 4, 2011, the cotrustees filed the second account current and report for the trust. The second account current covered the period of March 4, 2008, to July 31, 2011. On March 29, 2012, plaintiff filed her objections to the second account current. She reiterated all her previous objections to the first account current.

On April 26, 2012, the probate court issued an order regarding the second account current: "Since the Second Account Current encompassed all the matters set forth in the First Account Current, and since the Second Account Current accounted for a longer time period than the First Account Current, [the First Account Current] has been superseded

by the [Second Account Current].” The second account current and plaintiff’s petition to remove the cotrustees was set for trial commencing on August 28, 2012.

L. Probate Trial Statements

On August 17, 2012, the parties submitted a joint trial statement. The parties stipulated to the following facts. Mary is the mother of plaintiff, Diane and defendants. Mary created the trust on May 11, 1995. George, Alexander, and the special needs trusts for Diane and plaintiff are one-quarter residual beneficiaries of the trust. Mary died on March 4, 2008, and the trust became irrevocable. Defendants became successor cotrustees upon her death. On July 2, 2010, defendants filed their first account current. On November 4, 2011, defendants filed their second account current. The second account current superseded the first account current. Leroy Davis, Diane’s court-appointed attorney, had no objections to the second account current. As of the date of the joint trial statement, all trust-owned real estate properties had been sold.

The contested legal issues raised by plaintiff concerning the second account current included: loss of rental income on the Holt Avenue property; missing personal property; selling the Wofford Heights property below fair market value; surcharging the trustees for the accounting; and whether plaintiff or defendants should be ordered to pay the other side’s attorney’s fees under section 17211. Plaintiff’s petition to remove the trustees raised several arguments, including removal for failure to make payments under the special needs trust, alleged hostile acts towards plaintiff and each other that impaired the administration of the trust and whether the cotrustees properly administered the Holt Avenue property and the personal property within. Plaintiff also contested each cotrustee’s request for fees and out-of-pocket expenses to be charged to the trust. Mr. Davis, on behalf of Diane, filed his own separate trial statement seeking removal of the cotrustees for wasting trust assets.

Plaintiff included her own separate trial statement. Plaintiff sought additional surcharges against defendants for: damage to her teeth and failing to provide payments

for medical and dental care; failure to pay her according to the trust terms; and payment of Krugerrands owned by the trust to her.

M. Trial and Rulings

On August 28, 2012, plaintiff testified on her behalf. Plaintiff testified she witnessed Alexander and George screaming and yelling at each other at Mary's funeral. Concerning the Wofford Heights property, the following exchange between plaintiff and the probate court occurred: "THE COURT: I'm asking, do you have anything, any admissible evidence, to show what the fair market value of that property was at the time it was sold? [¶] THE WITNESS: No, I don't think so. I don't believe so."

Plaintiff attempted to admit exhibit No. 42 into evidence. Exhibit No. 42 was a digital video disc recording regarding her visit to the Holt Avenue property on December 28, 2010. Plaintiff argued it would demonstrate: hostility by Alexander against her; damage to the house; and how the cotrustees prevented her from entering the house to remove her property. The probate court excluded the recording. The probate court ruled: the recording may have been modified; defendants' attorneys were not advised that plaintiff intended to introduce it as evidence until the day of trial; and the recording was more prejudicial than probative.

On August 29, 2012, plaintiff admitted during cross-examination that she had been paid for her dental expenses. Plaintiff testified as to the incident between her and Alexander on December 28, 2010. Plaintiff testified that Alexander said to her: "F-ck you, f-ck you, f-ck you. Who do you think you are? I don't have to do nothing for you. I'm trustee. This is my house.' Things like that." Plaintiff testified that Alexander and their brother Daniel harassed her by calling her names, bullying her and jostling her around. Plaintiff testified George presented plaintiff with a document to sign over her shares of the Balian Market stock to him. Plaintiff testified George ridiculed and laughed at her.

Plaintiff objected to the introduction of certain documents used to indicate hostility between her and defendants at the time of the trust's creation. Mary, the settlor, had been made aware of the hostility prior to her death. Plaintiff argued this was an attempt to litigate her petition to modify the special needs trust. The probate court overruled plaintiff's objections. Plaintiff's petition to modify the special needs trust is not the subject of this appeal.

On August 30, 2012, Steven Hogan, Alexander's attorney, moved under Code of Civil Procedure section 631.8 to dismiss several of plaintiff's objections to the second accounting of the trust. Richard Rust, George's attorney, joined in Mr. Hogan's motion. The probate court granted the motion for judgment and approved the second account current. The probate court found the trust had paid for plaintiff's dental expenses. The probate court also denied plaintiff's petition to remove defendants as trustees.

On October 2, 2012, the probate court issued a minute order approving defendants' trustee's fees and costs from the second account current, as modified. The probate court concluded the fees, calculated at 1.5 percent of the trust assets, were unreasonable. The probate court noted, "Each of them required significant attorney assistance to carry out their duties that were in part exacerbated by their inability to work together." The probate court instead awarded \$36,000 total as compensation for each trustee for the years 2009 to 2011. The probate court also approved reimbursing defendants for their costs.

N. Third Account Current And Defendants' Petition To Surcharge Plaintiff

On November 2, 2012, defendants filed their "final" account and fees for the period of July 1, 2011, to August 31, 2012. Defendants applied for approval for their attorney's fees and expenses. Defendants also sought to surcharge plaintiff or her special needs trust for costs related to her litigation activity pursuant to section 17211, subdivision (a).

On January 3, 2013, plaintiff filed her objections to the “final” account. Plaintiff argued the trust itself, and not her special needs trust, should pay for her fees and costs. Plaintiff contended defendants failed in good faith to preserve and distribute the trust. Plaintiff also opposed defendants’ request to allocate their attorney’s fees to her trust.

The probate court heard the matter on January 16, 2013. On February 6, 2013, the probate court issued its minute order. The probate court deemed defendants’ “final” account as a third account current. Defendants had requested \$509,282 in fees and costs. The probate court approved a total of \$381,453 in fees and costs to defendants’ attorneys. Within that amount, the probate court approved \$184,772 in costs related to plaintiff’s litigation.

Regarding defendants’ section 17211, subdivision (a) request, the probate court found: plaintiff’s objections to the accounts were not supported by competent evidence; plaintiff’s objections resulted in litigation costs applied to the trust exceeding \$130,000; and plaintiff opposed the accountings in bad faith. Under section 17211, subdivision (a), the probate court charged plaintiff with 30 percent of \$130,000 for the attorney fees related to the litigation expenses pertaining to her objections. The probate court assessed plaintiff’s share of the trust in the amount of \$39,000. The balance of the fees pertaining to the third account current would be equally shared by all beneficiaries. On April 8, 2013, plaintiff appealed from the order.

On February 21, 2013, defendants filed a reconsideration motion contending: the probate court erred in tallying their attorneys’ invoices for July 1, 2011, through August 31, 2012 ; there was no difficulty between the trustees that merited a reduction relating to legal fees for trust administration ; and plaintiff should be charged \$40,608.77 for violation of section 17211, subdivision (a). On March 27, 2013, the probate court denied defendants’ reconsideration as to their second and third contentions. On April 2, 2013, the probate court granted defendants’ reconsideration motion as to their first contention. Defendants’ attorney’s fees were increased to a total of \$386,209 for the third account current. Plaintiff appeals from the March 27, 2013 order.

On April 24, 2013, the probate court issued orders approving the second and third account current as stated above. The probate court denied plaintiff's petition to remove defendants as cotrustees with prejudice. Regarding the third account current, the probate court also approved fees for each cotrustee in the amount of \$36,000. George was reimbursed \$5,698.47 in costs from the trust. Alexander was reimbursed \$1,261.23 in costs from the trust. On May 7, 2013, plaintiff appealed both April 24, 2013 orders.

O. Plaintiff's Surcharge Petition

On November 2, 2012, plaintiff moved to surcharge defendants. Plaintiff contended: defendants used the trust "as a war chest" to fund their legal battle; her share of the trust was reportedly \$1.2 million prior to defendants' legal battle and she should be made whole; she received only \$100,000 in distributions; defendants failed to prevent their brother Daniel from destroying personal property; defendants failed to charge Daniel appropriate rent; and defendants breached their fiduciary duties to benefit themselves. Plaintiff requested as relief: she be made whole; all attorney's fees incurred by defendants be allocated solely to them; and reasonable costs. Plaintiff in effect re-alleged issues she had previously raised at trial.

On February 6, 2013, the probate court granted plaintiff's surcharge petition in part. The probate court found plaintiff had not presented any competent evidence to support her allegations. Nonetheless, the probate court determined defendants had failed to distribute personal property in accordance with the trust. The probate court surcharged defendants \$5,000.

On February 21, 2013, defendants moved for reconsideration. They argued: plaintiff failed to properly notice the surcharge petition; no evidentiary hearing occurred ; they were not given adequate time to respond; and the evidence did not support a finding that the cotrustees had purposely refused to distribute the property. Defendants contended it was plaintiff who refused to take the personal property. During the

March 27, 2013 hearing, the probate court granted defendants' reconsideration motion concerning plaintiff's surcharge petition. The February 6, 2013 surcharge order was set aside. On May 7, 2013, plaintiff appealed the March 27, 2013 order.

P. Fourth Account Current

On May 31, 2013, defendants submitted their fourth account current for the period of September 1, 2012, through May 31, 2013. On June 28, 2013, plaintiff filed her response. She again requested defendants be suspended or removed as trustees to prevent alleged further harm to her. Plaintiff also requested the court deny the fourth account current's requested trustee fees and expenses. On July 17, 2013, the probate court heard the parties' arguments concerning the fourth account current. On September 10, 2013, the probate court issued a minute order approving all of the cotrustees' acts and transactions under the fourth account current. On October 8, 2013, plaintiff appealed from the September 10, 2013 order.

III. DISCUSSION

A. Plaintiff's Forfeited Arguments

An appealed judgment or order is presumed to be correct. (*In re Marriage of LaMusga* (2004) 32 Cal.4th 1072, 1093; *Conservatorship of Rand* (1996) 49 Cal.App.4th 835, 841.) All intendments and presumptions are indulged to support the judgment or order on matters as to which the record is silent and error must be affirmatively shown. (*In re Marriage of Arceneaux* (1990) 51 Cal.3d 1130, 1133; *Denham v. Superior Court* (1970) 2 Cal.3d 557, 564.) In the absence of a statement of decision, we will presume the trial court made all factual findings necessary to support the judgment. (*Hall-Villareal v. City of Fresno* (2011) 196 Cal.App.4th 24, 34-35; *Shaw v. County of Santa Cruz* (2008) 170 Cal.App.4th 229, 267; *In re Marriage of Arceneaux, supra*, 51 Cal.3d at pp.1133-

1134.) We review the implied findings under the substantial evidence standard. (*Shaw v. County of Santa Cruz*, *supra*, 170 Cal.App.4th at p. 267; *Fladeboe v. American Isuzu Motors Inc.* (2007) 150 Cal.App.4th 42, 60.)

Plaintiff appealed the probate court's orders approving defendants' second, third and fourth accounts current and the cotrustee's attorney's fees from July 1, 2011, through August 31, 2012. Attorneys hired by a trustee to assist the trust are entitled to reasonable fees paid from the trust assets. (*Rudnick v. Rudnick* (2009) 179 Cal.App.4th 1328, 1333; *Kasperbauer v. Fairfield* (2009) 171 Cal.App.4th 229, 235.) Here, the trust provided all expenses incurred in administering or protecting the trust would be a charge upon the trust estate. As noted above, the court examined all three account currents. The probate court issued decisions as to each amount it approved or denied. Hearings were held regarding each account current.

Plaintiff failed to identify in the record how the probate court's orders were not supported by substantial evidence. Plaintiff points to no facts and makes no coherent argument which indicates the probate court erred in approving the accounts current and cotrustee's attorney's fees as modified. We find plaintiff forfeited her arguments concerning the approval of the second, third and fourth account currents and the cotrustee's attorney's fees from July 1, 2011, through August 31, 2012. (See *Okasaki v. City of Elk Grove* (2012) 203 Cal.App.4th 1043, 1045, fn. 1 [argument forfeited because party did not provide any argument or citation to authority in support of contention]; 9 Witkin, Cal. Procedure (5th ed. 2008) Appeal, § 701, pp. 769-771.)

B. The Probate Court Did Not Abuse Discretion Finding Plaintiff Liable
Under Section 17211, Subdivision (a)

Plaintiff appeals from the February 6, 2013 order granting defendants' petition to surcharge her under section 17211, subdivision (a) for her challenge to the second account current. Section 17211, subdivision (a) provides: "If a beneficiary contests the trustee's account and the court determines that the contest was without reasonable cause

and in bad faith, the court may award against the contestant the compensation and costs of the trustee and other expenses and costs of litigation, including attorney's fees, incurred to defend the account. The amount awarded shall be a charge against any interest of the beneficiary in the trust. The contestant shall be personally liable for any amount that remains unsatisfied."

Whether reasonable cause existed to contest the cotrustees' account is reviewed de novo. Our Supreme Court held: "The meaning of 'reasonable cause' has been the subject of some debate, but most courts do agree on its general interpretation. Several courts have found instructive the definition of 'probable cause' in the malicious prosecution context. [Citation.] The terms 'reasonable cause' and 'probable cause' are generally considered synonymous, with 'reasonable cause' defined under an objective standard as "whether any reasonable attorney would have thought the claim tenable." "[Citations.] Another court stated, '*Reasonable cause* is to be determined objectively, as a matter of law, on the basis of the facts known to the plaintiff when he or she filed or maintained the action.'" (*Kobzoff v. Los Angeles County Harbor/UCLA Medical Center* (1998) 19 Cal.4th 851, 857 [construing "reasonable cause" in Code Civ. Proc., § 1038, subd. (a)]; see *Uzyel v. Kadisha* (2010) 188 Cal.App.4th 866, 926.) Controversies as to what facts are known to plaintiff at the time the action was initiated presents a question of fact for the trier of fact. (See *Sheldon Appel Co. v. Albert & Olier* (1989) 47 Cal.3d 863, 881; *Uzyel v. Kadisha*, *supra*, 188 Cal.App.4th at p. 927.) Once reasonable cause, or lack thereof, is determined objectively, the trial court has discretion to award attorney's fees. When a matter is for the discretion of the trial court, the abuse of discretion standard of review is applied. (*Gonzales v. Nork* (1978) 20 Cal.3d 500, 507; *Cahill v. San Diego Gas & Electric Co.* (2011) 194 Cal.App.4th 939, 957.)

Plaintiff first contends she had reasonable cause to object. Plaintiff argues defendants spent large amounts on attorney's fees unnecessarily. Plaintiff's argument is without merit. As stated previously, the trust allowed the cotrustees to hire consultants, including attorneys, in order to assist in administering the trust. As our colleague, Associate Justice Steve Perren, explained: "Attorneys hired by a trustee to aid in

administering the trust are entitled to reasonable fees paid from trust assets. Preparing the accounting and responding to the beneficiaries' objections to that accounting are aspects of trust administration." (*Kasperbauer v. Fairfield, supra*, 171 Cal.App.4th at p. 235; accord, *Donahue v. Donahue* (2010) 182 Cal.App.4th 259, 267.) This is the controlling authority.

Further, plaintiff argues the probate court had found the cotrustees failed to properly administer the trust. Plaintiff relies on the October 2, 2012 and February 6, 2013 minute orders which purport to demonstrate the probate court sustained her objections to the manner in which the trusts were administered. Plaintiff's argument has no merit. The February 6, 2013 minute order pertained to the third account current. The probate court's approval or disapproval of various fees therein is not controlling as to plaintiff's objections to the second account current. It is plaintiff's objections to the second account current that are the subject of defendants' surcharge petition under section 17211, subdivision (a).

Plaintiff presented no evidence at trial which demonstrated her objections to the second account current were reasonable. For example, plaintiff argued in her pretrial statement she had not received payment for her dental expenses. However, plaintiff testified she had. The second account current indicates such payment. Plaintiff claimed she never received her share of the trust's Krugerrands. However, the second account current showed her share was credited to her trust. Plaintiff contended the trust lost value on the Holt Avenue property, including lost rental earnings and failure to upkeep. Plaintiff presented no evidence demonstrating such occurred. Plaintiff contended the Wofford Hights property was sold below fair market value. Plaintiff later testified she had no evidence of its fair market value. Finally, there was no evidence any of the cotrustees' disagreements led to waste of any trust assets. The probate court did not abuse its discretion in surcharging plaintiff. (*Gonzales v. Nork, supra*, 20 Cal.3d at p. 507; *Guardianship of K.S.* (2009) 177 Cal.App.4th 1525, 1533 [applying abuse of discretion standard to findings under § 2622.5 pertaining to guardianship that objections to an account were without reasonable cause and in bad faith].)

Plaintiff also argues that evidence was improperly excluded. A trial court's evidentiary rulings are reviewed for an abuse of discretion. (*McIntyre v. The Colonies-Pacific, LLC* (2014) 228 Cal.App.4th 664, 670; *Pannu v. Land Rover North America, Inc.* (2011) 191 Cal.App.4th 1298, 1317.) Plaintiff fails to demonstrate how the probate court abused its discretion by denying the admission of some of her exhibits. Pro se litigants are held to the same standards as attorneys. (*Rappleyea v. Campbell* (1994) 8 Cal.4th 975, 985; *Burnete v. La Casa Dana Apartments* (2007) 148 Cal.App.4th 1262, 1267.) Plaintiff's arguments concerning exclusion of evidence are forfeited. (*Okasaki v. City of Elk Grove, supra*, 203 Cal.App.4th at p. 1045, fn. 1; 9 Witkin, *supra*, § 701, op. cit., at pp. 769-777.)

C. Probate Court Did Not Abuse Discretion by Denying Her Surcharge Petition

Plaintiff appeals from the denial of her petition to surcharge defendants under section 17211, subdivision (b). Section 17211, subdivision (b) applies when a trustee opposes a contest to a trust account in bad faith and without reasonable cause. Plaintiff contends defendants opposed her challenge to their second account current in bad faith. Plaintiff contends defendants defended themselves, not the trust. Thus, plaintiff argues the trustees should be liable for their own costs and are not entitled to reimbursement from the trust.

Again, we examine whether reasonable cause existed for defendants to oppose plaintiff's contest of the trust account. There was reasonable cause. Defendants successfully opposed plaintiff's contest, as described above. (See *Uzyel v. Kadisha, supra*, 188 Cal.App.4th at p. 928 [successful opposition to claims under § 17211, subd. (b) necessarily demonstrated the defendant had reasonable cause to oppose].) Accordingly, the probate court did not abuse its discretion by denying plaintiff's petition to surcharge defendants.

D. Plaintiff's Appeal of Petition to Remove the Trustees Was Untimely

The probate court denied plaintiff's petition to remove defendants as cotrustees on August 30, 2012. On that date, the probate court granted defendants' motion under Code of Civil Procedure section 631.8 for judgment and to dismiss plaintiff's petition for lack of sufficient evidence. Pursuant to section 1304, subdivision (a), any final order under section 17200, with some exceptions not applicable here, is appealable. Under section 17200, subdivision (a)(10), plaintiff's petition sought to remove defendants as cotrustees. Thus, the August 30, 2012 order which denied plaintiff's removal petition would be appealable if it was a final order.

Our Supreme Court has held regarding final orders: “[W]here no issue is left for future consideration except the fact of compliance or noncompliance with the terms of the first decree, that decree is final, but where anything further in the nature of judicial action on the part of the court is essential to a final determination of the rights of the parties, the decree is interlocutory.” (*Griset v. Fair Political Practices Com.* (2001) 25 Cal.4th 688, 698-699; accord, *Dana Point Safe Harbor Collective v. Superior Court* (2010) 51 Cal.4th 1, 5.) Here, there was “no issue left for future consideration” as to the denial of plaintiff's petition to remove defendants as trustees. Thus, the August 30, 2012 order was final. Under California Rules of Court, rule 8.104(a), plaintiff had up to 180 days after entry of the order to appeal. As noted, plaintiff appealed the probate court's denial of her petition to remove the trustees on May 7, 2013. This exceeded the 180-day time limit to file an appeal. Plaintiff's appeal of the denial of her petition to remove the trustees was thus untimely. The purported appeal from the August 30, 2012 order concerning removal of the trustees is dismissed.

IV. DISPOSITION

The February 6, March 27, April 2 and 24, and September 10, 2013 probate court orders are affirmed. The appeal from the August 30, 2012 order is dismissed. Defendants, Alexander and George A. Balian, as cotrustees of the Mary J. Balian Revocable Trust, are to recover their costs incurred on appeal from plaintiff, Patricia S. Balian.

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

TURNER, P. J.

We concur:

MOSK, J.

KRIEGLER, J.